HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

W.P.No.21897 of 2003

Dated 31st day of October, 2007

Between:

B. Vijay Kumar
and another ..
Petitioners

And

The Convenor EMCET, 2003
J.N.T. University, Hyderabad
and another ..
Respondents

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O R D E R:

This writ petition is filed seeking a mandamus to declare the action of the 2nd respondent-Principal, Gital Engineering College, in not returning the original certificates and the fee, which were received from the petitioners on 21.8.2003, to enable them to appear for counselling from 13th to 15th October, 2003 in J.N.T. University, Hyderabad, as arbitrary and illegal, and consequently direct him to return the original certificates/fees forthwith.

The petitioners assert that after being qualified in EAMCET, 2003, they approached the 2nd respondent-Principal for seats in B.Tech. in his college. The 2nd respondent collected Rs.25,000/- each from them on 21.8.2003 along with all original School/College certificates. Thereafter, the 1st respondent-Convenor, JNT University, for the second time, announced last phase of counselling to be held from 13 to 15th of October, 2003. Now, the grievance of the petitioners is that when they approached the 2nd respondent-Principal for the return of their original certificates to attend the counselling before the 1st respondent, he refused to return their certificates and also demanded them to pay Rs.3.00 lakhs besides Rs.25,000/-.

The 2nd respondent-Principal has filed counter affidavit stating that he admitted the petitioners into his college on accepting a sum of Rs.25,000/- from each initially under the management Quota on 21.8.2003, and thereafter, they attended the College up to the month of October, 2003, and, if they are allowed to leave the College in the middle of the year, the seats will go vacant not only for the academic

year 2003-2004 but also for subsequent three years, and thus, the College would be deprived of the fees.

Heard Sri P.B.Vijaya Kumar, learned counsel for the petitioners, Sri K.Rathangapani Reddy, learned counsel for the 1st respondent and Sri C.Srinivasa Baba, learned counsel for the 2nd respondent and perused the material placed on record.

On 28.10.2003, this Court, while ordering Rule Nisi directed the respondents to produce records, but they have not produced them so far. On 12.3.2004, a learned Single Judge of this Court in W.P.M.P.No.27338 of 2003 directed the 2nd respondent-Principal to return all the original certificates belonging to the petitioners on their furnishing bank guarantee of Rs.1.00 lakh each and the amount so deposited shall be subject to the result of the writ petition.

The specific case of the petitioners is that they paid an amount of Rs.25,000/- each under the management quota, and the 2nd respondent reserved seats for them, but they never attended the College. It is their further case that they were not even given any Roll Numbers to establish the fact that they attended the College. This fact would have been clear if the 2nd respondent-Principal had produced the records. As already observed, this Court directed the respondents to produce the records as early as on 28.10.2003, but so far, the records have not been produced. Hence, this Court is of the view that the petitioners did not attend Gital Engineering College at all. If really they had attended the College and had been given roll numbers, etc., and the 2nd respondent would have produced the records to that effect, and all these things would have been mentioned in the counter affidavit. All this clearly establish that the petitioners never attended the classes and it is only for the purpose of reserving the seats under the management quota the 2nd respondent-Principal took an amount of

Rs.25,000/- each from the petitioners. At this juncture, the learned counsel for the petitioners has submitted that the petitioners, having lost the academic year 2003-2004, again appeared for EAMCET, 2004 examination, obtained good ranks and got themselves admitted into another Engineering College during the academic year, 2004-2005, and in fact, they are now studying B.Tech. in final year. As the records were already returned to the petitioners in pursuance of the interim orders passed by this Court on 12.3.2004, the bank guarantee of Rs.1,00,000/- each furnished by the petitioners for return of the original documents, shall be returned to them forthwith.

In terms of the above observation, this writ petition is disposed of. No costs.

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31.10.2007

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